

CLAUSE I-124 – SUBCONTRACTOR COST OR PRICING DATA (August 2002)

- (a) (1) The Subcontractor shall require under the situations described in (2) below, unless exempted under the exceptions set forth in (3) below, each lower-tier subcontractor under this subcontract to submit cost or pricing data and to certify that, to the best of his knowledge and belief, such cost or pricing data are accurate, complete and current.
- (2) Except as provided in (3) below, certified cost or pricing data shall be submitted prior to (i) the award of each lower-tier subcontract, the price of which is expected to exceed \$550,000, and (ii) the negotiation of the price of each change or modification to a lower-tier subcontract under this subcontract for which the price adjustment is expected to exceed \$550,000.
- (3) Certified cost or pricing data need not be furnished pursuant to this paragraph (a) where (i) the Subcontractor has not been required to furnish cost or pricing data; or (ii) the price adjustment is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or the prices are set by law or regulation; and the Subcontractor states in writing the basis for applying this exception.
- (4) In submitting the cost or pricing data, the lower-tier subcontractor shall use the form of certificate set forth in paragraph (b) below and shall certify that the data are accurate, complete, and current. Such certificate and data (actual or identified, as provided in the certificate prescribed below) shall be submitted by lower-tier subcontractors to the next higher-tier subcontractor or the Subcontractor, as applicable, for retention.
- (b) The certificates required by this clause shall be in the form set forth below.

Subcontractor's Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, cost or pricing data submitted in writing, or specifically identified in writing if actual submission of the data is impractical (see FAR 15.403-4(d)), to the Subcontractor in support of _____ (identify the proposal, quotation, request for price adjustment, or other submission involved) are accurate, complete, and current as of _____ (insert the day, month, and year when price negotiations were concluded and price agreement was reached). This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between SURA or the Government and the officer that are part of the proposal.

FIRM: _____

NAME: _____

TITLE: _____

DATE OF EXECUTION: _____

- (c) For purposes of verifying that certified cost or pricing data submitted in conjunction with the negotiation of this subcontract change or other modification involving an amount in excess of \$550,000 were accurate, complete, and current, SURA shall, until the expiration of 3 years from the date of final payment under this subcontract, have the right to examine those books, records, documents, papers and other supporting data which involve transactions related to this subcontract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.
- (d) If the original price of this subcontract exceeds \$550,000 or the price of any change or other modification to this subcontract is expected to exceed \$550,000, the Subcontractor agrees to furnish the Subcontractor certified cost or pricing data, using the certificate set forth in paragraph (b) above, unless the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.
- (e) The requirement for submission of certified cost or pricing data with respect to any change or other modification does not apply to any subcontract change or other modification, at any tier, where the subcontract is firm fixed-price or fixed-price with escalation unless such change or other modification results from a change or modification to the subcontract, nor does it apply to a subcontract change or modification, at any tier, where the subcontract is not firm fixed-price or fixed-price with escalation unless the price for such change or other modification becomes reimbursable under the subcontract.
- (f) The Subcontractor agrees to insert paragraph (c) without change and the substance of paragraphs (a), (b), (d), (e), and (f) of this clause in each lower-tier subcontract hereunder in excess of \$550,000 and in each lower-tier subcontract of \$550,000 or less, at the time of making a change or other modification thereto in excess of \$550,000.
- (g) If SURA determines that any price, including profit or fee, negotiated in connection with this subcontract or any cost reimbursable under this subcontract was increased by any significant sums because the Subcontractor, or any lower-

tier subcontractor pursuant to this clause or any lower-tier subcontract clause herein required, furnished incomplete or inaccurate cost or pricing data or data not current as certified in the Subcontractor's certificate of current cost or pricing data, then such price or cost shall be reduced accordingly and the subcontract shall be modified in writing to reflect such reduction.

- (h) Failure of SURA and the Subcontractor to agree on any of the matters in paragraph (g) above shall be a dispute concerning a question of fact subject to the Disputes provisions of this subcontract.

NOTE: Since the subcontract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain lower-tier subcontracts, it is expected that the Subcontractor may wish to include a clause in each such lower-tier subcontract requiring the lower-tier subcontractor to appropriately indemnify the Subcontractor. It is also expected that any lower-tier subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by its lower-tier subcontractors.